

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

JAMES OTTMER BURGESS, JR.,

Plaintiff,

v.

CIVIL ACTION NO. 2:09-cv-01184

MICHAEL J. ASTRUE
Commissioner of Social Security,

Defendant.

ORDER

Before the Court is Plaintiff James Ottmer Burgess, Jr.'s complaint, which seeks judicial review of a decision of the Commissioner of Social Security denying him certain social security benefits. By Standing Order entered August 1, 2006, and filed in this case on October 30, 2009, this action was referred to United States Magistrate Mary E. Stanley for submission of proposed findings and a recommendation (PF&R). Magistrate Judge Stanley filed a PF&R [Docket 18] on October 14, 2010, recommending that this Court affirm the final decision of the Commissioner and dismiss the plaintiff's complaint.

The Court is not required to review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of de novo review and the plaintiff's right to appeal this Court's

Order. 28 U.S.C. § 636(b)(1); *see also Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir.1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984). In addition, this Court need not conduct a de novo review when a party “makes general and conclusory objections that do not direct the Court to a specific error in the magistrate’s proposed findings and recommendations.” *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982). Objections to the PF&R in this case were due on November 1, 2010. To date, no objections have been filed.

Accordingly, the Court **ADOPTS** the PF&R [Docket 18] and **AFFIRMS** the decision of the Commissioner of Social Security, thereby **DISMISSING** Plaintiff’s complaint [Docket 2] from the docket.

IT IS SO ORDERED.

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: November 15, 2010



THOMAS E. JOHNSTON
UNITED STATES DISTRICT JUDGE